

this would mean if it fell into the hands of terrorists. They could theoretically steal a nuclear device and either arm it or disarm it. That is the kind of information for which we cannot account.

Earlier today this body voted 97-0 to confirm the new czar, Gen. John Gordon, who has been waiting since May for confirmation. It had been held up by Members on the other side who had a hold on his nomination. The question of responsibility is a reasonable one. We had the assurance of the Secretary of Energy that he bore the responsibility for security in the laboratories after we had the Wen Ho Lee incident. That was widely publicized; it was widely debated. Not only that, at that time, Members will recall, there was a special commission set up. This commission came as a result of a report from the House. That report ultimately resulted in the appointment of a former respected Senator, Warren Rudman, who has since retired. The purpose of that report was to analyze the security at the laboratories at that particular time.

I will read a couple of inserts and findings from that report because I think they bear on the credibility of what we are hearing from the Department of Energy. One of the findings stated:

More than 25 years worth of reports, studies and formal inquiries—by executive branch agencies, Congress, independent panels, and even the DOE itself—have identified a multitude of chronic security and counterintelligence problems at all of the weapons labs.

Critical security flaws . . . have been cited for immediate attention and resolution . . . over and over and over . . . ad nauseam.

They haven't been corrected.

Further, the report again was the Rudman report. The open-source information alone on the weapons laboratories overwhelmingly supports a troubling conclusion: Their security and counterintelligence operations have been seriously hobbled and relegated to low-priority status for decades.

That, again, is associated with the Wen Ho Lee security breach.

Finally, Senator Warren Rudman indicates:

The Department of Energy is a dysfunctional bureaucracy that has proven it is incapable of reforming itself. Accountability at DOE has been spread so thinly and erratically that it is now almost impossible to find.

Well, we heard this morning that the Secretary is going to appoint—or has appointed—our respected colleague, Senator Howard Baker, and a very distinguished House Member, Lee Hamilton, to give a report on the findings as to the security adequacy at the labs. Well, I welcome this in one sense, and I reflect on it with some question in another, because clearly what Senator Rudman recommended in his report, "Science at its Best; Security at its Worst" was not followed by the Department of Energy.

The action taken by both the Senate and the House in the manner in which

we proceeded with legislation to authorize an energy czar was objected to by the Secretary of Energy through the entire process, almost to the point of eluding congressional intent in the law, and the fact that others felt inclined to hold up his nomination until the vote today, 97-0. I think that reflects on the squeaky wheel theory. The wheel squeaks enough today, and we finally put our czar, Gen. John Gordon, in a responsible position.

But the barn door has been left open, and it is inconceivable to me that we have not had adequate explanations of how this could occur. You can go to the library and get a card, take out a book, and they know who took out the book. If you are overdue, you pay a penalty. But not in the Department of Energy secured area. They have their so-called nest people who have access to this. It is estimated that that number is 86 or so. They take this material in and out.

What happened is rather interesting on this particular day, according to the testimony we had. I will leave you with this concluding thought: On May 7, the fire was moving toward the laboratory. The obligation of this nest group is to ensure that if the laboratories were to fall victim to the fire so that no one could get in for a period of time, they would have these hard drives available if somewhere there were a nuclear device that was prepared to or exposed somewhere to go off, that this team could take this technology on these two hard drives and go off and disarm them. They had that obligation. So they proceeded to go into the secured area and they asked permission and got permission from one of the deputies to enter. They went to remove the two hard drive disks, and they found that they were gone; they weren't there.

Now, what they did is rather interesting. They didn't notify their senior officials. They simply moved over to another shelf where a duplication of these hard drives was available and they took those. Then, after the fire, they went back and searched the place, could not find it, and finally they reported it, I think, on May 24. It was a timeframe from May 7, when the fire started, and on May 24 a team went back and searched again, and then at about the end of May, they called the DOE and in early June the story broke.

Those are the facts up until now. When you hear the explanations, you just shake your head and say, how could this happen? And then, of course, the questions we have are: Who might have this information? If they had it, what might they be able to do with it?

Some of these questions have to be responded to in a secure environment because of the national security interest. Some have said, well, the appropriators didn't give them enough money to ensure a foolproof system. They asked for \$35 million and I think they got \$7 million. It doesn't take \$7 million to put in a foolproof checkout system. They don't even have cameras in these secured areas. They don't know

who is going in and out—other than they have to have a certain security clearance to go in. But there is no checkout system. It is unbelievable.

We need answers and we are going to pursue this matter. As a consequence of the situation to date, clearly, the DOE and the labs have not been under control. I hope now that we have cleared the nomination, with the vote of 97-0, of the National Nuclear Security Administrator, that process can get underway. But there are a lot of questions that remain. The two missing hard drives contain secrets about every nuclear weapon in the world—just not ours. We should pursue this matter because clearly the buck has to stop somewhere.

When Congressmen NORM DICKS and CHRISTOPHER COX in their report concluded that China had design information—the Wen Ho Lee case—that should have been enough. The report by Senator Warren Rudman should have been an alarm, and the action by the Senate and the House to establish the energy czar should have been enough. But it wasn't. Today, as I said, the squeaky wheel got some grease. We have Gen. John Gordon in the position, but we have a lot of questions unanswered and a lot of people who assured us that they bore the responsibility that everything was under control. We found out today that it isn't.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

#### THE SITUATION AT LOS ALAMOS LABORATORIES

Mr. CRAIG. Mr. President, I, too, was attending the joint committee hearing this morning on the situation at the laboratories at Los Alamos that FRANK MURKOWSKI chaired, along with RICHARD SHELBY.

I must tell you that it was shocking and angering to watch an administration that recognized a problem and failed to do anything about it—or very little—and then to ignore a Congress that recognized the problem after extensive hearings and which passed legislation last year into law; and we have a Secretary of Energy who ignored it and openly denied that he would do it. And then for the Secretary not to show up this morning at a hearing—I am not sure how we respond to it.

But I will tell you how the American people ought to respond to it. They ought to say: Mr. Secretary, you have failed and you have failed us in the security of our country. We ask that we find someone better to serve in that capacity.

That is what the American people ought to be saying. And I hope they will.

#### THE RIGHT TO SELF-DEFENSE

Mr. CRAIG. Mr. President, I have come to the floor for the next few minutes to talk about something that is